



# Earth Negotiations Bulletin

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## **CBD COP-3 HIGHLIGHTS 8-10 NOVEMBER 1996**

Delegates to COP-3 met in the Committee of the Whole on Friday to discuss technology transfer, intellectual property rights (IPR), input to the WTO's Committee on Trade and Environment (CTE) and to the UNGA Special Session, incentive measures and the report of the Biosafety Working Group. Working Groups on agricultural biodiversity and financial issues also met. Working and drafting groups as well as informal consultations took place over the weekend with the aim of developing draft decisions to be presented to the COW.

### **COMMITTEE OF THE WHOLE**

**TECHNOLOGY TRANSFER:** The Secretariat introduced the document on access to and transfer of technology (UNEP/CBD/COP/3/21). SBSTTA Chair, Peter Schei (Norway), reviewed SBSTTA decision II/3 and called for an integrated approach to facilitating technology transfer.

The G-77/CHINA and SOUTH AFRICA sought an inventory of transferable technology, and with UNCTAD, INDIA, MALAWI, MALAYSIA, the PHILIPPINES, SWITZERLAND and others, stressed the need for capacity-building in developing countries. MALAWI called on the GEF to provide financial resources for capacity-building.

UNCTAD called attention to an international biotrading market with incentives for conservation of biological resources. SOUTH AFRICA, on behalf of the African Group, stressed that only environmentally sound technologies (ESTs) should be transferred. The EU called for the establishment of an international framework to facilitate cooperation in technology transfer. MALAYSIA and the PHILIPPINES called for further development of the CHM and better definition of the GEF's role and, with the REPUBLIC OF KOREA, increased private sector involvement. RWANDA said food security should be a priority in technology transfer. SWEDEN stressed capacity-building, incentives and enhancement of the CHM. TANZANIA emphasized the transfer of ESTs and benefit-sharing.

CHILE emphasized biosafety and traditional knowledge. DOMINICA called for "genuine partnerships" in technology transfer. HAITI highlighted insufficient financial resources. CANADA supported networks to promote technology transfer. The LATIN AMERICAN PLANT SCIENCES NETWORK highlighted training programs in botany and biotechnology.

**INTELLECTUAL PROPERTY RIGHTS:** The Secretariat introduced the documents addressing IPR and the relationship between the CBD and the Agreement on Trade-Related Aspects

of Intellectual Property Rights (TRIPs) (UNEP/CBD/COP/3/22 and 23). The EU linked well-functioning IPR systems to CBD implementation. CÔTE D'IVOIRE, on behalf of the African Group, called for IPR for traditional knowledge and a legal mechanism on access. SOUTH AFRICA and NEW ZEALAND highlighted adapting IPR to traditional knowledge. GERMANY called IPR "catalytic" in benefit-sharing arrangements. AUSTRALIA preferred that IPR be discussed under CBD objectives rather than separately. CANADA recognized the need to respect the contributions of indigenous knowledge to fulfilling the CBD's three objectives.

INDIA, BRAZIL, TANZANIA and MALAYSIA supported the recommendation for further study on patent application disclosure policy. The US supported voluntary disclosure of location of origin but opposed a requirement. The PHILIPPINES, JAPAN and others encouraged the preparation of case studies of IPR impacts. The PHILIPPINES and COLOMBIA said the COP should ensure that ownership of information disseminated through the CHM be retained by the providers.

The G-77/CHINA and FRANCE called for collaboration with WIPO. MEXICO expressed concern over a WIPO proposal for copyrighting databases and urged an impact analysis. BOLIVIA said legal systems are not adequate to tackle matters of indigenous knowledge, innovations and practices. INDONESIA called for an end to biopiracy. FRIENDS OF THE EARTH INTERNATIONAL noted that the CBD's third objective, benefit-sharing, has not received adequate attention. GREEN INDUSTRY BIOTECHNOLOGY PLATFORM said private investment will only occur where intellectual property protection is strong. FUNDACION NATURA opposed patenting human genes and said research on human genetics should be for medical uses only.

NORWAY, NEW ZEALAND, AUSTRALIA and the G-77/CHINA agreed that the CBD should send a statement to the CTE and should participate in its deliberations. SWITZERLAND, the US, FRANCE and the EU advocated that the CBD apply to the CTE for observer status.

BRAZIL suggested that the COP make proposals to the WTO to review TRIPs in 1999. The INDIAN INSTITUTE OF PUBLIC ADMINISTRATION said the document on TRIPs does not address the potential conflict between it and the CBD and called for a critical assessment of TRIPs and GATT as a whole. THIRD WORLD NETWORK said there is a clear conflict between TRIPs and the CBD and asked the COP to consider recommending the deletion of patenting of life provisions to the TRIPs review in 1999.

**IMPLEMENTATION OF ARTICLE 11:** The Secretariat introduced the documents regarding incentive measures

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(UNEP/CBD/COP/3/24 and Inf.36). The EU said incentives are flexible means to complement conservation. ARGENTINA called for incentives beyond protected areas. SOUTH AFRICA emphasized enabling legislation. UGANDA, on behalf of the AFRICAN GROUP, proposed a work programme on incentives. MALAWI and SWITZERLAND called for a standing agenda item on incentives. NORWAY disagreed, calling for integration into thematic and sectoral issues.

AUSTRALIA called for incentives including education, property rights and marketing measures. SENEGAL requested information on the private sector and capacity-building. INDONESIA requested input from SBSTTA-3. CAPE VERDE called for social and cultural incentives. SOUTH KOREA proposed a step-by-step approach, and, with PERU, called for case studies and valuation. NEPAL called for economic and social incentives. SWITZERLAND emphasized incentives giving immediate results and correcting perverse incentives.

The US and NORWAY stated that voluntary and mandatory measures complement incentives. The NETHERLANDS highlighted a sectoral view. COLOMBIA underscored permanent, direct and regional incentives. CANADA called for the incorporation of market forces. The NETHERLANDS COMMITTEE for the IUCN highlighted removal of perverse incentives.

#### **INPUT TO THE SPECIAL SESSION OF THE UNGA:**

The Secretariat introduced the document addressing input to the Special Session of the UNGA from the perspective of the Convention's three objectives (UNEP/CBD/COP/3/25, Inf.6 and Inf.42). Numerous delegations supported the proposal to submit a report to the Special Session in June 1997. The EU recommended that the report be succinct and include a summary of the Convention's work and lessons learned on each of the three objectives, as well as an expression of willingness to continue to work closely with other international fora. NEW ZEALAND and INDONESIA highlighted the need to avoid duplication of work. CANADA said the COP should use the opportunity to exhort the major financial institutions to factor the Convention's objectives into their deliberations. CUBA highlighted the present state of implementation and, with COLOMBIA and HUNGARY, emphasized the relations established with other Conventions. The NETHERLANDS underscored the cross-sectoral nature of biodiversity and the need to integrate it into the relevant CSD agenda items. NORWAY and ZIMBABWE noted the importance of integrating biodiversity concerns into other processes and sectors.

The CHAIR summarized the recommendations and informed delegates that the Secretariat would prepare a draft for discussion. A drafting group, chaired by Terry Jones (The Seychelles), was formed and met over the weekend to draft a statement to the Special Session.

**BIO SAFETY:** The Secretariat introduced the report of the first meeting of the Open-Ended *Ad Hoc* Working Group on Biosafety (BSWG) (UNEP/CBD/COP/3/26 and 27). The Chair of the BSWG, Veit Koester (Denmark), presented the meeting's procedural recommendations to the COP.

Most delegations supported the establishment of a ten member Bureau but were divided on the issue of its permanence. The EU, CHINA, the PHILIPPINES, HUNGARY and MEXICO said the Bureau should be comprised of its current members. The EU, the UK, CHINA, INDONESIA, the PHILIPPINES, NEW ZEALAND and NORWAY supported the establishment of a permanent Bureau while ZIMBABWE, CAMEROON and MOROCCO expressed reservations. MOROCCO suggested that half of the Bureau be renewed each year. BRAZIL, VENEZUELA and TUNISIA called for a rotating Bureau.

BOLIVIA, VENEZUELA, EQUATORIAL GUINEA and TUNISIA stated that socio-economic considerations and liability should be addressed in future protocol negotiations.

CAMEROON, TANZANIA, the UK, the RUSSIAN FEDERATION, MEXICO, ZIMBABWE, NEW ZEALAND, SWITZERLAND and TUNISIA underscored the need for capacity-building in biosafety. TUNISIA stated that a protocol should address prior informed agreement.

MALAYSIA, SWITZERLAND and ITALY endorsed the UNEP International Technical Guidelines for Safety in Biotechnology. BRAZIL supported the Guidelines as an interim mechanism until a protocol is finalized. NORWAY noted that the Guidelines should not prejudice or exclude any relevant elements from a future biosafety protocol. EQUATORIAL GUINEA recommended that COP consider the appropriateness of the Guidelines without funds for their implementation.

THIRD WORLD NETWORK and GREENPEACE INTERNATIONAL called for a global moratorium on GMOs. BIOTECHNOLOGY INDUSTRY ORGANIZATION underscored the benefits of judiciously applied biotechnology and recommended that the Secretariat consider recent consultations between WTO and FAO. GREEN INDUSTRY BIOTECHNOLOGY PLATFORM stated that the private sector should participate fully to ensure effective implementation.

#### **WORKING GROUPS**

**AGRICULTURAL BIODIVERSITY:** The Open-ended Working Group on Agricultural Biodiversity met Friday morning to hear the report of the drafting group, which was chaired by Braulio de Souza Dias (Brazil). The Working Group, which is chaired by Manfred Schneider (Austria), met Saturday to continue their review of the consolidated text and contentious issues were relegated to informal consultations. Two contact groups were established Saturday evening to address the work programme and funding issues. The Working Group concluded its work Sunday evening and produced a draft decision comprised of an operational section, a preamble and three appendices. Brackets remain around text regarding issues including trade impacts, market forces, the work programme and the relationship between the FAO Global System and the CBD.

**FINANCE:** Delegates to the Working Group on financial issues completed their first consideration of changes to the MOU (UNEP/CBD/COP/3/10) Friday morning. A G-77/China proposal, that the GEF "clearly indicate the reasons for which" the identified portion of the replenishment is considered new and additional funding, was bracketed. During a review of the G-77/China draft decision on guidance for the GEF, several developed countries indicated they would consider additional guidance based on the SBSTTA recommendations and matters on COP-3's agenda, but did not want to reconsider the GEF guidelines before the 1997 review. Informal consultations were to take place with the goal of identifying additional elements for guidance along these lines. The Working Group then considered draft revisions regarding the review of the effectiveness of the financial mechanism and discussed the scope of the review and how to refer to GEF biodiversity activities, among other issues. A small consultation group was formed with the aim of producing a new draft decision regarding the review.

#### **IN THE CORRIDORS**

As COP-3 passes the halfway mark, delegates are increasingly focused on how to formulate the final decisions. Many are also thinking about the *modus operandi* of future COPs, especially in terms of focusing the agenda and streamlining the work. With regard to the agenda, one delegate suggested that the sectoral issue area for COP-4, inland water ecosystems, could be the focus of discussions on cross-sectoral issues, such as benefit-sharing and technical cooperation. However, while many delegates are formally calling for a focused agenda, a range of priority issues for COP-4 consideration have been suggested.

#### **THINGS TO LOOK FOR TODAY**

**COMMITTEE OF THE WHOLE:** The COW will meet during the morning to consider the relationship of the CBD and other international agreements and the COP medium-term programme of work.

**WORKING GROUPS:** The Working Group on financial issues is expected to meet from 9:00 am to 1:00 pm and during the afternoon.